

S E C R E T

6 November 1981

MEMORANDUM FOR: Robert M. Gates  
Director DCI/DDCI Executive Staff

ATTENTION:

FROM: Stanley Sporkin  
General Counsel

SUBJECT: Weekly OGC Report for the DCI

REFERENCE: 29 Oct 81 Memo for Morning Meeting  
Attendees from D/DCI/DDCI Executive Staff

ITEMS OF MAJOR INTEREST - 31 October-6 November, 1981

Philip Agee. A United States District Court has affirmed the Government's determinations to withhold information which Agee had sought under the FOIA. Because of an uncoordinated release by the Justice Department of several of their own documents which asserted that CIA may have been involved in unlawful activities in connection with Agee, his attorneys made an emotional claim that records withheld had been improperly classified in an attempt to conceal evidence of those activities. The Court, after reviewing the documents in camera, rejected this argument, and held that the records were both properly classified and properly withheld to prevent the disclosure of sources and methods.

United States Supreme Court. OGC reported last week that representatives of this Office had met with the Solicitor General to urge him to appeal to the Supreme Court a lower court ruling which denied absolute immunity to the DCI in the exercise of his discretionary termination authority. The Solicitor General has now decided to proceed with this course of action, and the petition for certiorari will be submitted to the High Court on Monday, 9 November.

Freedom of Information Act. As noted last week, OGC briefed staffers for Senator Laxalt on the Administration's proposal to exclude CIA, NSA and DIA from the FOIA, and conveyed our request

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that the Senator introduce the proposal as a Senate bill. [REDACTED]

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Performance Awards. OGC has responded to the Office of Personnel with respect to Performance Awards which may be given to SIS members. Although the Agency must follow the Congressional mandate limiting these awards to 20 percent of the SIS membership, it will not have to follow the additional reductions mandated by OPM. [REDACTED]

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ANTICIPATED SIGNIFICANT EVENTS - 7-13 November, 1981

Proposed Executive Order on Intelligence Activities. During the past few days, the General Counsel has been involved in a series of meetings with the White House and the National Security Council on the proposed Executive Order on Intelligence Activities. Agreement has been reached on several changes, and there is now a strong likelihood that President Reagan will sign the new Order this coming week. [REDACTED]

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Executive Order 12036. House Judiciary Subcommittee on Civil and Constitutional Rights Chairman Don Edwards has now rescheduled his proposed hearing on "Intelligence Policy and American Rights" (i.e., the revision of Executive Order 12036) for Thursday, 12 November. [REDACTED]

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Stanley Sporkin

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